

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD ABONDOLO, as Chairman of the
Board of Trustees of UFCW LOCAL 342
HEALTH CARE FUND; RICHARD ABONDOLO, as
Chairman of the Board of Trustees of
UFCW LOCAL 342 ANNUITY FUND; RICHARD
ABONDOLO, as Chairman of the Board of
Trustees of UFCW LOCAL 342 SAFETY
EDUCATION, CULTURAL FUND, and RICHARD
ABONDOLO, as Chairman of the Board of
Trustees of UFCW LOCAL 342 LEGAL FUND,

MEMORANDUM & ORDER
10-CV-494 (JS)(ETB)

Petitioners,

-against-

MILTON ABELES, INC.,

Respondent.

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APPEARANCES:

For Petitioners: Ira D. Wincott, Esq.
Law Office of Ira D. Wincott
166 East Jericho Turnpike
Mineola, NY 11501

For Respondent: No appearances.

SEYBERT, District Judge:

On December 30, 2010, the Court issued a default judgment as to liability, but reserved judgment on an appropriate damages award. In this regard, the Court requested that Petitioners submit more information on how to properly calculate prejudgment interest. Having received this

information, the Court finds that Petitioners are entitled to the following award¹:

1. Delinquent contributions in the amount of \$36,526.82;
2. Prejudgment interest in the amount of \$7650.30²;
3. Liquidated damages in the amount of \$7650.30³;
4. Arbitration attorney's fees in the amount of \$800;
5. Arbitration costs in the amount of \$800;
6. Additional attorney's fees in the amount of \$1,750;
7. Additional costs in the amount of \$390.

¹ With the exception of the prejudgment interest and liquidated damages figures, the Court's awards come from Magistrate Judge Boyle's unopposed Report and Recommendation ("R&R"). See Docket No. 16. The Court has reviewed these figures and finds them to be free not only of clear error, but any error. The prejudgment interest and liquidated damages awards have been modified from Magistrate Judge Boyle's R&R, as discussed herein.

² The Arbitration Award, issued exactly 365 days ago, called for prejudgment interest of \$1,075.47. An additional year's worth of prejudgment interest at the contractual 18% simple rate comes to \$6574.83, generating a total interest award of \$7650.30.

³ The Arbitration Award called for liquidated damages of \$7,520.40, representing 20% of the unpaid contributions. At the time, this was correct. However, the parties contract called for liquidated damages to be paid in "the greater of" either: (a) the contractual interest due on the unpaid contributions; (b) 20% of the delinquent contributions; or (c) \$50. See Docket No. 18-1 at § 2. And, as of now, the amount of contractual interest due exceeds 20% of the delinquent contributions.

SO ORDERED.

/s/
Joanna Seybert, U.S.D.J.

Dated: January 25, 2011
Central Islip, New York